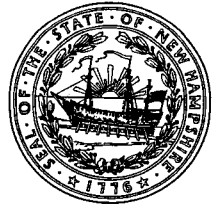




State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY  
WET 2004-43**

August 13, 2004

Bob & Gail Fleming  
7 Cedar Hill Lane  
Sherborn, MA 01770

RE: DES Wetlands File #2000-45, 9 Earl Shore Road, Wolfeboro Tax Map 220, Lot 22

Dear Mr. & Ms. Fleming:

On June 28, 2004, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Wolfeboro Tax Map 220 as Lot 22 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A, NH Code of Admin. Rules Wt 100-700 and Wetlands and Non-site Specific Permit # 2000-00045 (the "Permit"). The Permit authorized approximately 244 cubic yards of dredge along the shore, installation of rip-rap at the outlet of a seasonal stream and construction of a 35' breakwater with an 8' gap at the shore and a U-shaped docking facility consisting of a 6' x 35' pier cantilevered to the breakwater, a 6' x 30' piling supported pier and a 4' x 11'11" walkway connecting the two piers.

During the inspection the following deficiencies were documented:

1. At normal high water the breakwater measures 47' x 11', which is 12' longer and 3' wider than authorized by the Permit. Specific Condition #8 of the Permit required that "No portion of the breakwater above normal full lake shall extend more than 44 feet from the normal full lake shoreline."
2. The Permit required an 8' gap between the breakwater and the shore. The gap has filled in with sand on the northerly side of the breakwater.
3. The cantilevered pier is 44'11" long, which is 9'11" longer than authorized by the Permit.
4. The piling supported pier is 43'10" long, which is 13'10" longer than authorized by the Permit.
5. A 35'1" x 11'9" seasonal canopy is installed over the interior boatslip without a permit from DES.
6. The bank had not been stabilized in the area where the stepped access to the previous docking facility was removed.

*Letter of Deficiency WET 2004-43  
Page 1 of 3*

7. Specific Condition #2 of the Permit required that "This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction." To date, the DES Wetlands Bureau has not received a copy of the registered permit.
8. A review of photographs submitted with the original application and a comparison of water depths taken at the time of inspection with depths submitted with the original application indicate that the dredge work authorized by the Permit was done. It appears that sand accumulation is an ongoing problem at this docking facility.

In response, you are requested to take the following actions:

1. Within 10 days of the date of this Letter of Deficiency, submit the name of the contractor responsible for the work to DES.
2. Within 30 days of the date of this Letter of Deficiency, submit a copy of the recorded Permit to DES.
3. Within 30 days of the date of this Letter of Deficiency, submit a restoration plan to DES for review. The restoration plan should include the following:
  - a. A dated plan, dimensioned or drawn to scale, showing existing conditions on the Property. The "existing conditions" plan should include dimensions of all structures on the frontage, the location of each structure relative to other structures on the frontage, the distance from each structure to normal high water and the distance from each structure to the abutting property lines;
  - b. A plan, dimensioned or drawn to scale, showing restoration of the entire docking facility, the breakwater and the wharf to the dimensions, configuration and orientation specified by the Permit and Plans. The restoration plan should include: a description of any proposed modification or relocation of structures necessary to bring the structures into compliance with the Permit and approved Plans and a construction sequence including materials and methods proposed for completion of the work, a description of how the site will be accessed for construction and a timeframe for completion of the work.
4. Implement the restoration plan only after receiving written approval and as conditioned by DES.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

D. Forst, Shoreland Program Supervisor  
Wetlands Bureau  
Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-2147.

Sincerely,

~~COPY~~

D. Forst  
Shoreland Program Supervisor  
Wetlands Bureau

CERTIFIED MAIL # 7099 3400 0003 0695 2317

cc: Rene Pelletier, Manager, Land Resources Management Program  
Gretchen R. Hamel, Administrator, DES Legal Unit ✓  
Wolfeboro Conservation Commission  
Wolfeboro Board of Selectmen  
USACOE  
Lakeshore Construction Co., Inc.